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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,040

03/09/2005

Daiji Ido

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5560

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DICKINSON WRIGHT PLLC  
1901 L STREET NW  
SUITE 800  
WASHINGTON, DC 20036

EXAMINER

CHERNYAK, IGOR V

ART UNIT

PAPER NUMBER

4183

MAIL DATE

DELIVERY MODE

03/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,040	<b>Applicant(s)</b> IDO ET AL.	
	<b>Examiner</b> IGOR V. CHERNYAK	<b>Art Unit</b> 4183	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-14 and 19-33 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/07/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 09/07 2007 fails to comply with 37 CFR 1.98(a) (3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

There is no translation or explanation of relevance for Chinese Patent 1153583 and Chinese Office Action dated June 8, 2007.

Regarding USPN 5,930,223, the IDS sets forth that this patent was invented by Kanerva; however, upon review, this patent was actually invented by Toyama and is directed to a disc changer. Examiner believes that Applicant intended to list USPN 5,930,233, which was invented by Kanerva. Examiner has considered USPN 5,930,233 as indicated on the IDS.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 1-6 and 15-18** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims recite a signal per se (**a transmission data structure**). A “claim reciting only a . . . signal . . . *per se* does not appear to be a process, machine, manufacture, or composition of matter.” MPEP § 2106(IV) (B) (citing to *In re Nuijten*, Docket no. 2006-1371 (Fed. Cir. Sept. 20, 2007) (slip. op. at 18) (“A transitory, propagating signal like Nuijten’s is not a process, machine, manufacture, or composition of matter.’ . . . Thus, such a signal cannot be patentable subject matter.”)). As such, the claimed invention is directed to non-statutory subject matter.

*Allowable Subject Matter*

4. **Claims 7-14 and 19-33** are allowed. The prior art does not disclose or fairly suggest generating a header section of a text transmission data in which text information, a text data length, playback time information and the number of divided text data contained in a next packet is contained. For example, **Inoue (US 6,496,896 B1)** disclose a transmission method for text transmission data (**data and text data to be transmitted as GUI data are formed for each channel. Those data are time division multiplexed into transport packets of the MPEG 2 as seen from FIGS. 7A to 7D and transmitted as such transport packets. Then, the data are re-constructed in the IRD 112 as seen in FIGS. 7E to 7H using header information of the individual data packets** on Figs.7A – 7H, column 18 lines 1-12), said text transmission data being for transporting and playing text playback data in order, said text playback data being for use for a playback of text data, said transmission method comprising: generating a payload section of the text transmission data based on the text playback data, said text playback data including a plurality of divided text data where the text data is divided and playback start information for starting a playback of the divided text data; and adding the header section to each generated payload section and making a packet (Figs.9A - 9C), wherein each payload section includes the playback start information of the text header data (column 18 line 1- column 20 line 46).

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Here, **Inoue** discloses that the header section of this streaming text packet only contains information pertaining to this streaming text packet – it does not contain information pertaining to any other streaming text packet.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IGOR V. CHERNYAK whose telephone number is (571)270-1957. The examiner can normally be reached on Monday - Thursday 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Igor V. Chernyak/  
Patent Examiner, Art Unit 4183

/Len Tran/  
Supervisory Patent Examiner, Art Unit 4183